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APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/902,691		07/12/2001	Li Li	M4065.0159/P159-A	3130	
24998	7590	04/28/2004		EXAM	EXAMINER	
DICKSTE		PIRO MORIN & OS	BROCK II	BROCK II, PAUL E		
		C 20037-1526		ART UNIT	ART UNIT PAPER NUMBER	
	,			2815		
				DATE MAILED: 04/28/2004	4	

Please find below and/or attached an Office communication concerning this application or proceeding.

19	Application No.	Applicant(s)	
Advisory Action	09/902,691	LI ET AL.	
Auvisory Aution	Examiner	Art Unit	
	Paul E Brock II	2815	
The MAILING DATE of this communication appe	ears on the cover sheet with the c	orrespondence add	ress
THE REPLY FILED 26 March 2004 FAILS TO PLACE Therefore, further action by the applicant is required to a final rejection under 37 CFR 1.113 may only be either: (condition for allowance; (2) a timely filed Notice of Appe Examination (RCE) in compliance with 37 CFR 1.114.	void abandonment of this application to the supplication of the su	cation. A proper rep ch places the applic	ply to a cation in
PERIOD FOR RE	EPLY [check either a) or b)]		
a) \square The period for reply expires 3 months from the mailing date of	f the final rejection.	•	
b) The period for reply expires on: (1) the mailing date of this Advevent, however, will the statutory period for reply expire later the ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS 706.07(f).	an SIX MONTHS from the mailing date of	f the final rejection.	
Extensions of time may be obtained under 37 CFR 1.136(a). The dathave been filed is the date for purposes of determining the period of exten 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened (b) above, if checked. Any reply received by the Office later than three more earned patent term adjustment. See 37 CFR 1.704(b).	sion and the corresponding amount of the I statutory period for reply originally set in	fee. The appropriate extended the final Office action; or	tension fee under (2) as set forth in
1. A Notice of Appeal was filed on Appellant' 37 CFR 1.192(a), or any extension thereof (37 CF			
2. The proposed amendment(s) will not be entered b	ecause:		
(a) L they raise new issues that would require furth	er consideration and/or search (see NOTE below);	
(b) \square they raise the issue of new matter (see Note I	pelow);		
(c) they are not deemed to place the application issues for appeal; and/or	in better form for appeal by mat	erially reducing or s	simplifying the
(d) they present additional claims without cancel	ling a corresponding number of	finally rejected clair	ms.
NOTE:			
3. Applicant's reply has overcome the following rejection	etion(s):		
 Newly proposed or amended claim(s) would canceling the non-allowable claim(s). 	l be allowable if submitted in a s	eparate, timely file	d amendment
5.⊠ The a)□ affidavit, b)□ exhibit, or c)⊠ request for application in condition for allowance because: Set		sidered but does NO	OT place the
6. The affidavit or exhibit will NOT be considered be raised by the Examiner in the final rejection.	cause it is not directed SOLELY	to issues which we	ere newly
7. For purposes of Appeal, the proposed amendmen explanation of how the new or amended claims w			and an
The status of the claim(s) is (or will be) as follows:			
Claim(s) allowed:			
Claim(s) objected to:			

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10. Other: ____

Claim(s) rejected: <u>59,60,62,64,66-84,92 and 93</u>. Claim(s) withdrawn from consideration: _____.

8. \square The drawing correction filed on ____ is a) \square approved or b) \square disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s).

TOM THOMAS'
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Continuation of 5. does NOT place the application in condition for allowance because: With regard to applicant's argument comparing a "chemically engraved plate" of Hazani v. U.S. Int'l Trade Comm'n, 126 F.3d 1473, 44 USPQ2d 1358 (Fed. Cir. 1997) and an element being "affixed" to another as in R2 Medical Systems, Inc. v. Katecho, Inc., 931 F.Supp. 1397, 1425-26 (N.D. III. 1996) to the claimed product-by-process limitations, it should be noted that applicant's "resulting structures" do not structurally define the claimed invention over the prior art. While there are "defined and distinct" structural characteristics when performing a chemical engraving or an affixing process as in the above mentioned two cases, no comparable "defined and distinct" structural feature result from the product-by-process which applicant claims. For example, applicant has not pointed out how "reduced sidewall striations" structurally define distinct features which are not present in the prior art. Therefore, applicant's arguments are not persuasive, and the rejection is proper. With regard to applicant's arguments that the "claimed invention relates to an integrated circuit structure with specific structural features obtained by a particular process methodology," it should be noted that "a particular process methodology" does not structurally distinguish over the prior art unless the product resulting from the "a particular process methodology" is different from the prior art. Applicant has not pointed out the structural features of the claimed invention and the prior art are different. Therefore, applicant's arguments are not persuasive, and the rejection is proper.

With regard to applicant's discussion of the process of Irinoda on page 8, middle paragraph - page 9, second paragraph, it should be noted that the claims are directed toward a product. Process limitations do not define structural limitations in a device claim. Therefore, applicant's arguments are not persuasive, and the rejection is proper.